

Marlborough Community Development Authority



PROCUREMENT POLICY

This procurement policy applies to the Marlborough Community Development Authority (MCDA) in order to comply with Massachusetts bidding statutes governing the procurement of construction, supplies and services. The MCDA an urban renewal agency within the meaning of M.G.L. c.121B, an Economic Development and Industrial Corporation within the meaning of M.G.L. c.121C and a Community Development Authority created by Special Act in 1979 (Chapter 327 thereof) and as amended by Chapter 380 of the Special Acts of 2004 and Chapter 395 of the Special Acts of 2008.

This procurement policy supersedes any and all previous policies. This policy hereby incorporates by reference all provisions of the above cited laws and regulations and adheres to the Code of Conduct for Public Employees, consistent with applicable state and federal laws.

I. City of Marlborough Procurement Oversight and Direction

The MCDA in addition to this policy also adheres to all procurement rules, regulations and policies of the City of Marlborough. The Chief Procurement Officer (CPO) of the City of Marlborough has the authority to review the procurement process and request necessary information. All contracts over \$10,000.00 must be filed with the Marlborough CPO.

II. Changes in Financial Thresholds

The financial thresholds listed in this policy will change automatically when the Massachusetts procurement laws effect such a change. **This policy follows updates as of June 15th, 2018 pursuant to passage of Chapter 113 of the Acts of 2018.**

**III. Posting Compliance:
Central Register, Combuys & Goods/Services Bulletin**

The MCDA shall utilize the Central Register, Combuys and Goods & Service Bulletin as required by DHCD and Massachusetts procurement laws, regulations and policies. In addition, the MCDA shall post on the City of Marlborough's website and the MCDA's standalone website.

IV. Purchase Orders

A purchase order must be obtained with the proper approvals for any maintenance purchase over \$200.00 and for all office supply purchases.

V. Change Orders

Change Orders for construction projects should be brought to the MCDA Board, however, the Executive Director has authority to approve individual change orders up to \$10,000.00

VI. Emergencies

The MCDA operates and manages over 232 units of housing. A lack of competition is permissible only when an emergency exist which permits no delay because of the possibility of injury, loss of life or destruction of property or when only one source of supply is available, and the PO or designee shall so certify. For the purpose of emergency situations involving construction related work a DCAM waiver shall be required. For supplies and services, the Chapter 30B emergency procedures are to be followed.

VII. The MCDA Board

1. The MCDA CPO may not solicit or award a contract for a term greater than 3 years, excluding renewals, extensions or options except for automated laundry or elevator service which shall be for a term vote by the Board (no greater than 10 years).
2. Applicable rules established by the Department of Housing & Community Development (DHCD) and the Department of Housing & Urban Development and their respective Inspector Generals' shall be adhered to. These procedures and any changes thereto will be submitted to the Board for approval.

VIII. Delegation of Procurement Officer's Powers and Duties

The City of Marlborough CPO shall delegate his/her powers and duties in accordance with this policy to the Executive Director or to additional employees as requested. A delegation shall be in writing, be signed by the CPO and state the activity or function authorized and the duration of the delegation. A delegation may be in specific or general terms, may be limited to a particular procurement or class procurements and may be conditioned upon compliance, with specified procedures. A delegation may be revoked or amended whenever the CPO determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the office of the Inspector General.

IX. Delegation of MCDA Board Selection Authority

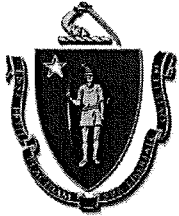
1. If deemed necessary by the MCDA's Executive Director, the MCDA Board may be presented with a motion authorizing the Mayor/Chair of the Board to approve a vendor and not subject final approval by the entire board.
2. The Mayor/Chair if granted such authorization can only approve a vendor after review by the Executive Director and approval by the City of Marlborough's Chief Procurement Officer.

X. Delegation of MCDA Board Selection Authority

Applicable laws, regulations and rules established by the Department of Housing & Community Development (DHCD) and the Department of Housing & Urban Development and their respective Inspector Generals' shall be adhered to.

XI. Procurement Policies

The following are the individual methods of procurement of supplies, services and construction contractors as published time to time by the Massachusetts Office of the Inspector General. The attachments are meant only as a guide for more detail please review to the actual general law, regulation and published guides.



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INSPECTOR GENERAL

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Dear Local Official:

The Office of the Inspector General (Office) created the following charts for local officials to use as a quick guide on public procurement procedures that must be followed pursuant to the Massachusetts General Laws. Your local rules may establish stricter or additional requirements that you must follow. Contact your chief procurement officer or legal counsel for advice on your local rules and procurement procedures.

The Office updated the charts with changes that are effective June 15, 2018, pursuant to the passage of Chapter 113 of the Acts of 2018, *An Act Providing for Capital Facility Repairs and Improvements for the Commonwealth*. The charts highlight particular compliance requirements depending on the cost or the nature of your procurement. For example, the charts highlight, where applicable, the requirement for a ten-hour course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA). The charts are meant to provide a general overview of the principal public procurement statutes, and are not a substitute for reviewing the statute or obtaining the advice of legal counsel.

The charts include:

- M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS
- M.G.L. c. 30, § 39M, or M.G.L. c. 30B – PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS (WITH LABOR)
- M.G.L. c. 30, § 39M, or M.G.L. c. 30B – CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT LABOR)
- M.G.L. c. 7C, §§ 44-58 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS: Cities, Towns, Regional School Districts and Horace Mann Charter Schools
- M.G.L. c. 30B – PROCUREMENT OF SUPPLIES AND SERVICES

Any suggestions for the charts or questions concerning Chapter 30B (M.G.L. c. 30B) may be directed to this Office by calling (617) 722-8838. Questions concerning M.G.L. c. 149, M.G.L. c. 30, § 39M, and M.G.L. c. 7C may be directed to the Office of the Attorney General by calling (617) 963-2371 or your legal counsel.

Additional information is available from the following sources:

- Prevailing wage rate sheets may be requested online at <http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/> or by calling the Department of Labor Standards at (617) 626-6953.
- *Central Register* advertisements may be submitted to the Secretary of the State's Office online at <http://www.sec.state.ma.us/spr/sprcentral/infosubmit.htm>. The submission deadline is 4:00 p.m. on Thursday for publication the following Wednesday.
- *Goods and Services Bulletin* advertisements may be submitted the Secretary of the State's Office online at <http://www.sec.state.ma.us/sprpublicforms/GSSubmissionform.aspx>. The submission deadline is 4:00 p.m. on Wednesday for publication the following Monday.
- COMMBUYS postings may be completed at www.commbuys.com.

My Office is committed to helping procurement officials comply with the state's procurement laws and make responsible purchasing decisions. Please do not hesitate to contact our Chapter 30B hotline if we can be of further assistance. Thank you.

Sincerely,



Glenn A. Cunha
Inspector General

**M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS
(WITH LABOR)**

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	\$50,000 or less	Over \$50,000
	M.G.L. c. 30, § 39M	M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option ¹	M.G.L. c. 30, § 39M
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2). ²	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. ³	Sealed bids.	Sealed bids.
Notice/Advertising Requirements	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ⁴	Post a notice at least two weeks before bids are due 1) in your jurisdiction's office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . ⁵	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁶
OSHA Training	No.	Yes.	Yes.	Yes.
Prequalification	No.	No.	No.	Maybe. ⁷
Bid Deposit	No.	No.	No.	5% of the value of the total bid.
Payment Bond	No.	50% payment bond if contract is more than \$25,000. ⁸	50% payment bond if contract is more than \$25,000. ⁹	50% payment bond.
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.
OSD or Blanket Contract Option	Yes.	Yes.	No.	No.

¹ Authorized by M.G.L. c. 30, § 39M(d).

² M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

³ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

⁵ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.

⁶ M.G.L. c. 149, § 44J.

⁷ Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more (1) if the awarding authority receives State Aid funds under M.G.L. c. 90, § 34; or (2) the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

⁸ M.G.L. c. 149, § 29.

⁹ M.G.L. c. 149, § 29.

**M.G.L. c. 7C, §§ 44-58 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS:
Cities, Towns, Regional School Districts and Horace Mann Charter Schools¹**

Estimated Design Fee (EDF)/Estimated Construction Cost (ECC)	EDF less than \$30,000 or ECC less than \$300,000	EDF \$30,000 or more and ECC \$300,000 or more
Procurement Procedure	None. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either (1) set the design fee; or (2) set a not-to-exceed fee limit and then negotiate the fee with the top-ranked designer within the fee limit.
Advertising Required	No.	Advertise in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
Designer Selection Board¹	No.	No – adopt selection procedure in writing. ^{2,3}
Designer Application	No.	Yes. See <u>Designer Selection Procedures for Municipalities</u> . Use “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)”
Designer Evaluation (Submit to DCAMM and Designer Selection Board)	No.	Yes. See <u>Designer Evaluation Forms & Information for Municipalities and Agencies</u>
Registration	Yes.	Yes.
Insurance	No.	At a minimum, the lesser of \$1 million or 10% of the project’s estimated cost of construction. ⁴
Prevailing Wage	No.	No.

¹ Executive Departments of the Commonwealth and Commonwealth charter schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$30,000 or more and the estimated construction cost is \$300,000 or more.

² Cities, towns, school districts and Horace Mann charter schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in M.G.L. c. 7C, §§ 44 – 58, and noted herein. See this Office’s Model Designer Selection Procedures for Municipalities and Other Local Public Agencies.

³ Housing Authorities must follow the procedures established by the Department of Housing and Community Development for the design of state-funded housing. Projects requesting funding from the Massachusetts School Building Authority (MSBA) are subject to MSBA rules.

⁴ M.G.L. c. 7C, § 51.

**M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – CONSTRUCTION MATERIALS PROCUREMENTS
(WITHOUT LABOR)**

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000	Any Amount
	M.G.L. c. 30, § 39M	M.G.L. c. 30, § 39M	M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option ¹
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2). ²	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.	Sealed bids.	Sealed bids.
Notice/Advertising Requirements	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ³	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁴	Post a notice at least two weeks before bids are due 1) in your jurisdiction's office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . ⁵
OSHA Training	No.	No.	No.	No.
Prequalification	No.	No.	No.	No.
Bid Deposit	No.	No.	5% of the value of the total bid.	No.
Payment Bond	No.	50% payment bond if contract is more than \$25,000. ⁶	50% payment bond.	50% payment bond if contract is more than \$25,000. ⁷
Performance Bond	No.	No.	No.	No.
Prevailing Wage	No.	No.	No.	No.
OSD Option	Yes.	Yes.	Yes.	No.
Blanket Contract Option	Yes.	Yes.	No.	No.

¹ Authorized by M.G.L. c. 30, § 39M(d).

² M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

³ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 149, § 44J.

⁵ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A. (Note: If the procurement will exceed \$100,000, and the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, at least two weeks before bids or proposals are due, publish in the *Goods and Services Bulletin*.)

⁶ M.G.L. c. 149, § 29.

⁷ M.G.L. c. 149, § 29. (Note: If the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, you do not need to obtain a payment bond.)

M.G.L. c. 30B – PROCUREMENT OF SUPPLIES AND SERVICES

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000
Procurement Procedure	Sound business practices. ¹	Use a written purchase description to solicit written quotations from no fewer than 3 persons who customarily provide the supply or service. ²	Sealed bids or proposals (M.G.L. c. 30B, §§ 5 or 6).
Notice/Advertising Requirements	None.	None.	Post a notice 1) in your jurisdiction’s office, and, at least two weeks before bids or proposals are due, publish 2) in a newspaper, and 3) on COMMBUYS. If the procurement will exceed \$100,000, at least two weeks before bids or proposals are due, publish in the <i>Goods and Services Bulletin</i> .
Award contract to:	Responsible person offering the best price.	Responsible person offering the needed quality of supply or service at the lowest price quotation.	Under § 5, the responsible ³ and responsive ⁴ bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.
Written Contract Required⁵	No. Keep written records as a best practice.	Yes.	Yes.
Maximum Contract Term⁶	Three years, unless majority vote authorizes longer.		
OSD Option	Yes.		

¹ M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”

² M.G.L. c. 30B, § 4, as amended by Chapter 218 of the Acts of 2016.

³ M.G.L. c. 30B, § 2, defines a responsible bidder or offeror as “a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.”

⁴ M.G.L. c. 30B, § 2, defines a responsive bidder or offeror as “a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals.”

⁵ M.G.L. c. 30B, § 17(a), states “All contracts in the amount of \$10,000 or more shall be in writing, and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract.”

⁶ M.G.L. c. 30B, § 12(b), states “Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option.”

M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000 to \$150,000	Over \$150,000	Over \$10,000,000
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2). ¹	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.	Sealed bids (using M.G.L. c. 30, § 39M).	Sealed bids (using M.G.L. c. 149, §§ 44A – 44J).	Solicit statements of qualifications prior to soliciting sealed bids (using M.G.L. c. 149, §§ 44A – 44J).
Notice/Advertising Requirements	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction’s website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ²	Post a notice 1) in your jurisdiction’s office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ³	Post a notice 1) in your jurisdiction’s office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁴	Advertise the request for qualifications at least two weeks before responses are due (1) in a newspaper; (2) in the <i>Central Register</i> ; and (3) on COMMBUYS. ⁵
DCAMM Certification	No.	No.	No.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.
OSHA Training	No.	Yes.	Yes.	Yes.	Yes.
Prequalification	No.	No.	No.	Optional. ⁶	Yes.
Filed Sub-bids	No.	No.	No.	Yes, if more than \$25,000.	Yes, if more than \$25,000.
Bid Deposit	No.	No.	5% of the value of the total bid.	5% of the value of the total bid or sub-bid.	5% of the value of the total bid or sub-bid.
Payment Bond	No.	50% payment bond if contract is >\$25,000. ⁷	50% payment bond.	100% payment bond.	100% payment bond.
Performance Bond	No.	No.	No.	100% performance bond.	100% performance bond.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.	Yes.
Contractor Evaluation	No.	No.	No.	Yes.	Yes.
OSD or Blanket Contract Option	Yes.	Yes.	No.	No.	No.

¹ M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”

² M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 218 of the Acts of 2016.

³ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁵ The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general contractors and subcontractors that have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid, to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$150,000 apply.

⁶ If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the “Over \$10,000,000” column. (Note: The prequalification threshold was not raised in 2016.)

⁷ M.G.L. c. 149, § 29.